



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

AMENDED DECISION

RAP/161872

PRELIMINARY RECITALS

Pursuant to a petition filed November 12, 2014, under Wis. Admin. Code § HA 3.03(4); Wis. Stat. § 227.42; and see, Wisconsin Works Manual, Chapter 20, to review a decision by the Wisconsin Works (W-2) in regard to Other, a hearing was held on December 17, 2014, at Milwaukee, Wisconsin.

The issue for determination is (1) whether the agency calculated and issued the correct amount of Refugee Cash Assistance in April, May, June, July, August, September, and October, and (2) whether the agency terminated the petitioner's RCA effective November 1, 2014.

On March 5, 2015 the undersigned ALJ received a rehearing request due to a clerical error in the date of the decision affecting the petitioner's right to appeal. The undersigned ALJ granted that request, and issues this amended decision fixing that error. The previous decision was dated January 16, 2015, but should have been dated February 16, 2015. This decision replaces that decision in its entirety.

There appeared at the hearing the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Workforce Development
4201 N. 27th Street Suite 400
Milwaukee, WI 53215
By: Denise Doudna
Wisconsin Works (W-2)

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner is a resident of Milwaukee County. The petitioner is a household of one.
2. The petitioner received Refugee Cash Assistance (RCA) between April and October 2014.
3. In April 2014 the petitioner received \$218 in RCA. The petitioner's gross income for April was \$1,304. This is over 115% of the federal poverty level (FPL) making the petitioner ineligible for RCA. Thus, the petitioner was overpaid \$218 in April.
4. In May 2014 the petitioner received \$309 in RCA. The petitioner's gross income in May was \$973. The petitioner should have been paid \$218 in RCA, and thus was overpaid \$91.
5. In June 2014 the petitioner received \$435 in RCA. The petitioner's gross income in June was \$516. Thus, there was no overpayment for June 2014. The petitioner was paid the correct amount.
6. In July 2014 the petitioner received \$526 in RCA. The petitioner's gross income in July was \$299.70. The petitioner should have received \$653 in RCA for July. Thus, the petitioner was underpaid \$127 for July.
7. In August 2014 the petitioner received \$358 in RCA. The petitioner's gross income in August 2014 was \$600.74. The petitioner should have received \$435. Thus, the petitioner was underpaid \$77 for August.
8. In September 2014 the petitioner received \$358 in RCA. The petitioner's gross income in September was \$1,330.22. This is in excess of 115% of the FPL, and the petitioner was not eligible for any RCA in September. Thus, the petitioner was overpaid \$358 in September 2014.
9. In October 2014 the petitioner received \$78 in RCA. The petitioner's gross income in September was \$1,330.22. This is in excess of 115% of the FPL, and the petitioner was not eligible for any RCA in September. Thus, the petitioner was overpaid \$78 in October 2014.
10. The net amount of the overpayment from April through October 2014 is \$541.
11. On October 29, 2014 the agency informed the petitioner that he was no longer eligible for RCA as his monthly gross income was \$1,330.22, which exceeded the 115% FPL program limit.
12. On November 17, 2014 the Division of Hearings and Appeals received the petitioner's request for administrative hearing.

DISCUSSION

The Refugee Cash Assistance Program (RCA) is for refugees who enter the United States without income or assets with which to support themselves. The goal of the RCA program is to provide a basic standard of living to those recently arrived refugees who do not qualify for W-2 and to promote rapid economic self-sufficiency. *W-2 Manual*, Chapter 18, 18.2.1. See, online at <http://dcf.wisconsin.gov/w2/manual/default.htm> (last viewed January 2015). It is handled within the W-2 program by W-2 agencies. *Id.* There are financial and non-financial eligibility requirements. *Id.* 18.2.4, 18.2.5.

A person meets the non-financial eligibility requirements if the person (1) possess a qualifying immigration status; (2) has been in the United States eight months or less (except for an asylee or victim of trafficking, for whom the eight month clock begins as of the date the person is granted asylum or certified as a victim of trafficking, respectively); (3) be a resident of Wisconsin; (4) be ineligible for a W-2 paid placement, and not be receiving Supplemental Security Income (SSI) or Kinship Care; (5) not

have quit a job or refused a job offer within the 30 days prior to application; (6) comply with employment and training requirements; (7) not be enrolled as a full-time student in higher education; and (7) not be enrolled in the Matching Grant Program. *Id.* 18.2.4.

A person meets the financial eligibility test if the person has available gross assets worth less than \$2500 and has income at or below 115% of the federal poverty level (FPL). *Id.* 18.2.5. 115% of the FPL in the months at issue here was \$1,118 monthly gross income for a household of one. *Id.* 3.2.1.

The program requires that agencies maintain a procedure to ensure the recovery of overpayments and correction of underpayments for the RCA program. *Id.* 18.2.6.10. The W-2 manual does not specify a time period for the agency to establish and collect overpayments, rather the agency must have procedures in place for recovery of the overpayments. I note that in other areas where there are overpayments in public assistance benefits the agency often has a significant time period to establish those overpayments, anywhere from one to six depending on the reason for the underlining overpayment. See *Wisconsin FoodShare Handbook*, Chapter 7.3.2.1. See online at <http://www.emhandbooks.wisconsin.gov/fsh/fsh.htm> (last viewed January 2015), *Childcare Manual*, 2.1.5.2. See online at <http://dcf.wisconsin.gov/childcare/wishares/pdf/chapter2client.pdf> at page 20 (last viewed January 2015). I am not aware of any time period of less than one year.

In this case the agency attempted to correct both overpayments and underpayments and the petitioner appealed. The agency has calculated the total overpayment in the amount of \$541. The petitioner was overpaid \$218 in April, \$91 in May, \$358 in September, and \$78 in October. This totals \$745. However, the agency also underpaid the petitioner \$127 in July and \$177 in August making the net overpayment \$541. I have reviewed these calculations, and the calculations are correct given the petitioner's income during this time period. The petitioner does not dispute the agency's calculations in this case.

Rather, the petitioner argues that the establishment and collection of this overpayment is unfair. The petitioner argues that they did not tell him until October, and some of this overpayment is from April. I note that this is less than six months and a very reasonable time period. Having seen many overpayment cases in other areas of public assistance this is a relatively efficient time period. The petitioner further argues that if he had known he was ineligible for two of the months he would not have done his W-2 requirements, which would have allowed him to devote more time to his studies. This is an equitable argument that I am without jurisdiction to address.

I further find that the agency correctly terminated the petitioner's RCA effective November 1, 2014 because his income was over 115% of the FPL. The petitioner's income of \$1,330.22 was more than \$200 over the program limit of \$1,118 for a household of one.

CONCLUSIONS OF LAW

The agency correctly calculated a net overpayment of RCA for April 2014 through October 2014. The agency correctly terminated the petitioner's RCA benefits effective November 1, 2014.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Workforce Development, 4201 N. 27th Street Suite 400, Milwaukee, Wisconsin, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 6th day of March, 2015

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 6, 2015.

Wisconsin Works (W-2)

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